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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------|---------------------|------------------|
| 09/787,454      | 06/12/2001  | Richard Timothy Hartshorn | CM1913F             | 2212             |

27752 7590 04/03/2002

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EXAMINER

BOYER, CHARLES I

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1751

10

DATE MAILED: 04/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF 10

# Office Action Summary

Application No.  
09/787,454

Applicant(s)  
Hartshorn

Examiner  
Charles Boyer

Art Unit  
1751



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 1, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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### DETAILED ACTION

This action is responsive to applicants' amendment and response received March 1, 2002.

Claims 1-9 are currently pending.

#### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "components" in claim 1 is used by the claim to mean "separate regions or a mixture of compositions containing different components," while the accepted meaning is "a constituent part."

The confusion on the examiner's part as to what is being claimed stems from the fact that applicants' invention appears to be a mixture of compositions containing different components, however what is claimed is a detergent composition containing at least 5% aluminosilicate builder and at least 5% anionic surfactant. Applicants argue that one of the "components" of the

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composition may have no aluminosilicate and one of the "components" of the composition may have no anionic surfactant. However, this interpretation is not supported by the claims as broadly written. Applicants are claiming a composition. The claims as written do not allow for aluminosilicate to be present in one component, and not present in a different component. Since aluminosilicate must be in the composition, claim 5 is confusing. The claims should be rewritten such that they claim components A, B, and C for example, and wherein perhaps component A contains no aluminosilicate or component C contains no anionic surfactant. Absent such clarification, the examiner maintains the minimum value of M possible is 0.05 since both components must be present in amounts of at least 5%.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As discussed above, as the claims as presently written require only an anionic surfactant and an aluminosilicate, the examiner estimates there are hundreds of references that would anticipate at least claim 1 of the present application. Anionic surfactants and aluminosilicate builders are extremely common components for use in detergent compositions. The examiner has taken into consideration the present invention as a whole, in order to identify the closest prior art,

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which art is cited below. Applicants should be aware however, that there are many other references that could have been cited against the present invention. Any response from applicants to the references cited below that does not also address the fact that their claims are extremely broadly written, would likely not be successful in rendering those claims allowable.

5. The rejection of claims 1, 2, and 4-6 under 35 U.S.C. 102(b) as being anticipated by Sai et al, US 4,208,295 is withdrawn in view of applicants' amendment and response.

6. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyer et al, US 4,265,777.

Boyer et al teach aluminosilicate detergent compositions (see abstract). An example of such a composition comprises 6% sodium tallow alkyl sulfate and 20% zeolite A (col. 10, example IX). Note that  $M = 0.18$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

7. The rejection of claims 1, 2, and 4-6 under 35 U.S.C. 102(b) as being anticipated by Nicol, US 4,125,370 is withdrawn in view of applicants' amendment and response.

8. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleming et al, US 4,000,094.

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Fleming et al teach a spray-dried detergent composition (see abstract). An example of such a composition comprises 6% sodium alkyl sulfate and 54% sodium aluminosilicate (col. 5, example 1). Note that  $M = 0.32$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

9. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor, US 4,243,544.

Taylor teaches spray-dried detergent compositions (see abstract). An example of such a composition comprises 3.5% sodium tallow alkyl sulfate and 18% zeolite A (col. 6, example 2). Note that  $M = 0.11$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

10. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Llendado, US 4,303,556.

Llendado teaches detergent compositions containing aluminosilicates (see abstract). An example of such a composition comprises 5.5% sodium alkyl sulfate and 25% sodium aluminosilicate (col. 12, example 1A). Note that  $M = 0.21$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

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11. The rejection of claims 1, 2, and 4-6 under 35 U.S.C. 102(b) as being anticipated by Davey et al, US 4,123,377 is withdrawn in view of applicants' amendment and response.

12. Claims 1-3, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al, US 4,321,157.

Harris et al teach granular laundry detergent compositions (see abstract). An example of such a composition comprises 12% alkyl ether sulfate, 8.25% zeolite, 3.75% TAED, and 25% sodium perborate (col. 21, example IX). Note that  $M = 0.10$  in this example. Further note the particulate mixture has an average particle size of from  $250\mu\text{m}$  to  $3000\mu\text{m}$  (col. 2, lines 58-61). As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

13. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheng, US 4,414,130.

Cheng teaches readily disintegrable agglomerate detergent compositions (see abstract). An example of such a composition comprises 30% LAS and 60% zeolite (col. 24, example 9). Note that  $M = 0.42$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

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***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng, US 4,414,130.

Cheng is relied upon as set forth above. Note that effervescent materials or mixtures may be added to these compositions as dispersing aids (col. 5, lines 43-52). It would have been obvious to one of ordinary skill in the art to include an effervescent system in the composition of Cheng et al and so render obvious the claims at hand as such a system is taught as suitable for use in the compositions of Cheng et al.

***Conclusion***

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after



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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Charles Boyer



March 31, 2002